



New Pay-Setting Rules

Working for America

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT



Message from the President

“America depends on thousands of Federal employees who help keep this country strong and ensure that our government functions effectively.”

- George W. Bush





Authorizing Legislation

- Section 301 of Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004)
- Effective date: May 1, 2005
- Affected regulations:
 - Part 530, subpart C (special rates)
 - Part 531, subparts B, C, D, F, and G (pay administration)
 - Part 536 (grade & pay retention)
 - Other (conforming changes)



Purpose

- To correct anomalies related to exclusion of locality pay in applying various rules – make rules more rational, consistent, and fair
- To put locality rates and special rates on same footing
- To improve operation and effectiveness of special rates program



Key Changes

- Locality pay must be considered in applying various rules (e.g., maximum payable rate, promotion, pay retention).
- When official worksite changes, employee's pay must be converted to new geographic area before processing any simultaneous pay actions.
- Nature of retained rate is changed. Locality rate may not be paid on top of a retained rate. Retained rate is established based on "highest payable rate" and compared to highest applicable rate range."
- Special rate program improvements.



Before and After New Rules

Before

Employee entitled to underlying special rate

If underlying special rate were terminated, pay retention would apply

Former special rate would be slotted into GS rate range or converted to retained rate

Employee would receive full locality payment on top of resulting rate

After

There is no such thing as an underlying special rate

If employee's special rate is surpassed by a locality rate, employee's special rate entitlement is terminated

No pay retention when underlying special rate is terminated

Employee continues to receive higher locality rate



Before and After New Rules

When an employee receiving special rate is promoted to grade where no special rate applies—

Before

Special rate is increased by 2 steps, and resulting rate is slotted into the **GS rate range**

Employee receives full locality payment on top of GS rate

Employee's promotion increase reflects 2-step increase plus full amount of locality pay

After

Special rate is increased by 2 steps, and resulting rate is slotted into the **locality range**

Employee entitled to lowest locality rate that exceeds rate reflecting 2-step increase

Employee's promotion increase reflects 2-step increase

Before and After New Rules

Before

Employee receiving retained rate plus locality pay in special rate position

Retained rate adjustment (50%) at time of general pay increase causes employee's retained rate to fall below step 10 special rate; pay is set at step 10 special rate

Employee's pay is reduced, since locality pay not paid on top of special rate

After

Employee receiving retained rate (no locality component) in special rate position

Retained rate adjustment (50%) at time of general pay increase causes employee's retained rate to fall below step 10 special rate; pay is set at step 10 special rate

Employee's pay is slightly increased when placed on step 10



Special Rates: Program Improvements

- Special rate cap = EX level IV
- Agency may opt out of proposed or existing special rate schedule
- Geographic conversion – does not create entitlement to pay retention
- OPM adjusts special rate supplement as necessary
- General or targeted reviews



Special Rates: Nature of rate

- Special rate = base + supplement
- Same base rate that applies to other GS employees at same grade & step (or rate)
- Supplement = dollar or percentage amount on top of GS rate
- Special rate is generally basic pay for same purposes as locality rate
- Special rate entitlement eliminated if employee entitled to higher rate



Special Rates: Schedule Changes

- On May 1, 2005—
 - Eliminated special rates exceeded by corresponding locality rates
 - Increased certain schedules affected by increasing cap from EX-V to EX-IV
 - Increased 3 schedules inconsistent with base + supplement concept (because rates frozen in the past) – special rates adjusted to use current GS within-grade increases
- In the future—
 - GS base rates adjusted automatically when General Schedule adjusted
 - Special rate schedules adjusted by adjusting the supplement



Locality Rates: General

- Retained rate no longer used as base in computing locality rate (base = GS rate or LEO special base rate)
- Locality rates will be treated as basic pay in applying GS pay administration rules, grade & pay retention, 3Rs payments, awards, etc.
- Inviting comments on use of locality rates in computing danger pay allowances and post differentials for employees on extended detail or travel from a locality pay area



Locality Rates: Official Worksite

- Changing term from “official duty station” to “official worksite” to avoid confusion with term used in travel regulations
- Making modifications consistent with January 2005 proposed “e-payroll standardization” regulations – telework situations
- Inviting comment on proposal to adopt new approach for temporary promotion or reassignment to position in different location



GS Pay Setting: General

- Defining “rate of basic pay” to include locality rate in applying maximum payable rate rule, promotion rule, etc.
- “Position of record” and “official worksite”
- “Highest applicable rate range” and “payable rate” (Note: Hybrid range)
- Geographic conversion rule
- Simultaneous pay actions



GS Pay Setting: Pay Schedules

- General Schedule
- LEO special base rates (GS-3 through 10)
- Locality rate schedules based on GS rates
- Locality rate schedules based on LEO rates
- Special rate schedules under 5 U.S.C. 5305
- Special rate schedules under 38 U.S.C. 7455



GS Pay Setting: Geographic Conversion

- Apply geographic conversion rule if “official worksite” is changed to new location where different pay schedules would apply to employee’s position of record before move
- Find corresponding rates on new pay schedules (i.e., same grade and step)
- Use resulting rates as existing rates of pay in applying next simultaneous pay action



GS Pay Setting: Simultaneous Pay Actions

- Order of precedence for processing simultaneous pay actions:
 - 1) General pay adjustments
 - 2) Geographic conversion
 - 3) Within-grade increases and QSIs
 - 4) Promotion
 - 5) Other
- Existing rate



GS Pay Setting: Types of Actions

- New appointment (superior qualifications and special needs)
- Lateral reassignment or transfer
- Promotion
- Demotion
- Movement from NAFI
- Maximum payable rate rule
- Applying annual pay adjustments
- Within-grade increases & QSIs (subparts D & E)



GS Pay Setting: New appointment

- Agencies may use superior qualifications and special needs pay-setting authority to set employee's "payable" (highest) rate (compare existing non-GS pay to highest applicable rate range)
- Simpler rule – any temporary appointment in competitive or excepted service not considered in applying 90-day break-in-service rule for determining whether employee is newly appointed
- Miscellaneous clarifications



GS Pay Setting: Promotion Rule

- Apply two-step increase using the underlying GS (or LEO) schedule
- Determine payable rate for resulting step or rate (i.e., add any applicable supplement)
- Compare payable rate to “highest applicable rate range,” and set pay at lowest step rate that equals or exceeds that rate
- Continue to have special rules if above method produces rate greater than range max or if employee has retained rate before promotion



GS Pay-Setting: Promotion Rule

- If “official worksite” changes to location where different pay schedules apply, apply geographic conversion before applying promotion rule
- Converted rates based on old position of record and new official worksite
- After geographic conversion, apply promotion rule using converted rate as existing rate; compare payable rate (reflecting 2-step increase) to highest applicable rate range for position after promotion



GS Pay-Setting: Promotion Rule

- “Alternate method” when (after geographic conversion) different pay schedules apply to position before promotion and position after promotion
- Example situations:
 - Non-special rate to special rate
 - Lower-paying special rate schedule to higher-paying special rate schedule
 - Change in LEO status
- Apply promotion rule using pay schedules that apply to existing position of record, then laterally convert resulting payable rate to the corresponding step rate in highest applicable rate range for the position after promotion
- Generally use alternate method only when it produces higher result (unless special exception applies)



GS Pay Setting: Maximum Payable Rate (MPR) Rule

- If highest previous rate (HPR) = GS or LEO rate, determine MPR in grade in which pay is currently being set by comparing HPR to GS or LEO range for that grade in effect at same time
- If HPR = special rate, apply geographic conversion (if applicable) and then compare resulting rate to highest applicable rate range for current position
- If HPR = rate under non-GS pay system, determine MPR by comparing HPR to highest applicable rate range (in GS system) in effect at time and place where HPR earned
- Inviting comments on proposal to limit time period from which HPR is drawn (e.g., 5 or 10 years before action)



GS Pay Setting: Within-grade Increases (WGI)

- Apply WGIs to underlying base schedule
- New approach to determining “equivalent increase” based on type of pay actions or events (rather than summing increases under non-GS pay system)
- In non-GS pay systems, opportunity for basic pay increase will be considered an equivalent increase



Grade & Pay Retention: Key Changes

- Reorganized with separate subparts on grade retention and pay retention
- Locality rates included as rate of basic pay
- Conversion of existing retained rates on May 1
- Geographic conversion before applying grade & pay retention rules; no pay retention based on geographic conversion
- Pay retention applies to employee with retained grade in same manner as it applies to other employees; no retained rate through operation of grade retention rules (no 100% adjustment)



Conversion of Existing Retained Rates

- Effective May 1, 2005, any existing locality-adjusted retained rate must be converted to a retained rate of equal value
- Conversion applies to—
 - Retained rates under 5 U.S.C. 5363
 - Retained rates under 5 U.S.C. 5334(b)
 - Retained rates under 5 U.S.C. 5362
 - IGA or LEO GEO continued rates above max



Grade Retention

- No grade retention when moving to GS or FWS from noncovered pay system (affects future actions only)
- Need to compare representative rates (after applying any geographic conversion – existing rate converted to rates at new location)
 - Eligibility when moving between GS & FWS (to lower grade)
 - Loss of entitlement when moving between GS & FWS (to equal/higher-graded job or to lower-graded job for personal cause or at employee's request)
 - Loss of entitlement based on reasonable offer of equal/higher-graded job in any Federal pay system



Pay Retention

- After any geographic conversion, compare existing payable rate to highest applicable rate range for new position; slot into range or establish retained rate
- EX-IV cap on retained rate (not EX-V)
- Retained rate is basic pay for specified purposes – for other purposes (e.g., 3Rs payments and awards), use maximum rate of employee's grade



Pay Retention

- 50% adjustment tied to maximum rate of highest applicable rate range for employee's position
- If “official worksite” changes while receiving retained rate, 50% adjustment rule does not apply; retained rate adjusted to maintain same relative position vis-à-vis range maximum



Changes in GS Pay Administration Rules

Additional Information

- *Interim regulations, memorandum, and guidance:*
www.opm.gov/oca/compmemo/2005/2005-10.asp
- *Comments on regulations may be submitted by email to*
pay-performance-policy@opm.gov *or by fax to (202) 606-0824 by August 1, 2005.*